

V.
Robert Joos, defendant.Motion to Remove Community Defender & Delay Trial

Comes now Robert Joos to move this Court remove community defender, Perry/Johnson, & delay trial for reasons as follows:

1. While admitting that official recognition by this Court of the falsity of STATE convictions would resolve this case in my favor, C.D. refuses to do anything to help me obtain judicial review [as required by law, in that: I'm being punished prior to sentencing (jailed without bail in violation of 8th Amendment, & denied treatment for life threatening illness); there is a factual dispute (felony conviction); substantive due process requires a judge to determine what is fundamentally unfair, unreasonable, or shocking to conscience of society; the actions taken against me by STATE were unconstitutional & therefore null, void, & of no effect from their inception; this Court has the duty to review acts for constitutionality & declare invalid if not]. Instead, C.D. wants me to hire another attorney, which, being a pauper, I cannot. Although I have done the research to prove I was falsely convicted, I cannot while jailed & afflicted with ineffective assistance of counsel.

2. C.D. lied to this Court at the 21 Dec 09 hearing when he claimed he had reviewed all discovery with me & was prepared for trial. Other than 2000+ pages of phone call transcripts having almost nothing to do with this case (& what little there is, no one has bothered to review them with me to see if there is anything relevant), and a few summaries of alleged phone calls (also unreviewed), and pictures I've seen nothing to indicate what evidence the prosecutor intends to use. The alleged phone calls I've not heard at all, & from the few summaries I've seen, I know there is exculpatory evidence therein. I wasn't even told until after the hearing, that witness Becka Stevens is not going to be at trial. I know this person has exculpatory evidence, but C.D. refuses to subpoena her. It's also harder for 3 people to keep their stories straight when lying, than 2.

3. C.D. refuses to subpoena prosecution witnesses, so that they can be directly examined, instead of just cross-examined.

4. C.D. refuses to depose witnesses, claiming he can't under Federal rules (which he has not shown me); but if true, this rule needs to be challenged on ground that it denies me a key element of defense, to wit: sworn testimony which, if it involves perjury, can be used to prepare a defense, & if not, can be used to discourage perjury at trial. What little I've seen of discovery indicates that prosecution witnesses intend to commit perjury. COPS routinely commit perjury. *Briscoe v. Latta* (?) U.S. Sup.

5. C.D. has not revealed what evidence prosecutor has, that I'm a felon.

6. C.D. refuses to subpoena defense witnesses.

7. C.D. (after hearing) called me a liar, a fraud, & a criminal who refuses to obey "authority" (referring to The Bible); obviously not understanding the original meaning of the word in Greek, & ignoring Christ's command to obey God, not man, C.D. refuses to even read my 6 page petition to U.S. Supreme Court, dealing with bail & Grand Jury Rights, which shows I obey the law (Constitution) as interpreted by Supreme Court; unlike the criminals who have persecuted me & The Church for over 30 years, It's obvious from his tirade, that he has spent his time chasing rumours & lies

being spread by corrupt Cops, criminals, media, & internet, instead of preparing for trial; and that his oaths as an attorney & JAG officer were meaningless. C.D. refuses to file for a bill of particulars to discover what "substantial effect" plaintiff is claiming my alleged act had on interstate commerce. U.S. v. Lopez, ~~514~~ 514 U.S. 549, 558-59 (1995): "substantial effect" required. C.D. refuses to respond to my two, 2 page letters, covering numerous trial/defense issues.

10. C.D. refuses to challenge validity of search warrant, despite fact I've provided the pertinent case law. Cops initially obtained access to Church office under false pretenses, then used that warrantless search to obtain a search warrant.

11. C.D. refuses to review any of my court filings, all of which deal with law & facts relevant to this case; choosing instead to berate me about my religious beliefs, The Church, & the false reputation which criminals promote. He even accused me of being a member of the KKK.

12. C.D. refuses to subpoena evidence & witnesses to prove good character & thereby establish credibility (a necessity as my entire defense depends on jury believing the truth). Old Chief v. U.S., 511 U.S. 172, 186-9; U.S. v. De Angelo, 13 F3d 1228, 1232 (8th Cir.).

13. C.D. refuses to raise issues of law which must be made now in order to preserve them in case of appeal.

14. C.D. refuses to prepare voir dire questions to attempt to obtain a jury of my peers who are not prejudiced against me; as C.D. obviously is.

15. C.D. demanded names & contact information of Church members & became irate when I refused on ground that from past experience I know that anyone associated with me is subject to persecution. Even the Church attorney is too terrified to help me. That's beside fact I can't pay.

16. Being tried for a crime which is based on conviction for a past crime (false or not), is double jeopardy, forbidden by 5th Amendment. I have never been sentenced to denial of a Constitutionally secured right. (See Notice & Demand: Constitutional Rights).

17. C.D. refuses to prepare to present my theory of the law, which U.S. Supreme Court confirms is a valid defense. Cheek v. U.S., 498 U.S. 192 (1991).

18. Even if not facing a life sentence (being denied treatment for illness shortens my life daily), I would still have the right to a complete defense (Crane v. Kentucky, 476 U.S. 683, 690-1; U.S. v. Turning Bear, 357 F3d 730, 733; 8th Cir.) which C.D., through gross negligence, & blatant disregard for my rights, is denying me.

So stated under penalty of perjury 22 Dec 09, Robert Josa/Najarito
wherefor I move this Court to: remove C.D.; delay trial 60 days to allow me time to prepare my defense; require court clerk to comply with my request for file stamped copy of petition for judicial review (sent 8 Dec 09) & same for this motion; require clerk to send copies of this motion to C.D. & plaintiff as sheriff is refusing (I have a signed statement) to have his staff make me copies; provide findings of fact & conclusions of law, & oral argument.